



General Assembly

January Session, 2017

## ***Amendment***

LCO No. 6826



Offered by:

REP. LEMAR, 96<sup>th</sup> Dist.  
REP. CANDELARIA, 95<sup>th</sup> Dist.  
REP. PORTER, 94<sup>th</sup> Dist.  
REP. MCCARTHY VAHEY, 133<sup>rd</sup> Dist.  
REP. ROSE, 118<sup>th</sup> Dist.

REP. REYES, 75<sup>th</sup> Dist.  
REP. URBAN, 43<sup>rd</sup> Dist.  
REP. D'AGOSTINO, 91<sup>st</sup> Dist.  
SEN. WINFIELD, 10<sup>th</sup> Dist.

To: Subst. House Bill No. 6356

File No. 45

Cal. No. 63

### ***"AN ACT CONCERNING PUBLIC NOTICE OF TREE REMOVAL ON MUNICIPAL PROPERTY."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 23-65 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) Any person, firm or corporation which affixes to a telegraph,  
6 telephone, electric light or power pole, or to a tree, shrub, rock or other  
7 natural object [in] on any municipal property or in any public way or  
8 grounds, a playbill, picture, notice, advertisement or other similar  
9 thing, or cuts, paints or marks such tree, shrub, rock or other natural  
10 object, except for the purpose of protecting it or the public and under a  
11 written permit from the town tree warden, the borough tree warden,

12 city forester or Commissioner of Transportation, as the case may be, or,  
13 without the consent of the tree warden or of the officer with similar  
14 duties, uses climbing spurs for the purpose of climbing any  
15 ornamental or shade tree within the limits of any municipal property  
16 or public highway or grounds, shall be fined not more than fifty  
17 dollars for each offense.

18 (b) Any person, firm or corporation, other than a tree warden or  
19 deputy tree warden, who removes, prunes, injures or defaces any  
20 shrub or ornamental or shade tree, within the limits of a parcel of  
21 municipal property or public way or grounds, without the legal right  
22 or written permission of the town tree warden, the borough tree  
23 warden, the city forester, the Commissioner of Transportation, the  
24 Public Utilities Regulatory Authority or other authority having  
25 jurisdiction, may be ordered by the court in any action brought by the  
26 property owner or the authority having jurisdiction affected thereby to  
27 restore the land to its condition as it existed prior to such violation or  
28 shall award the landowner the costs of such restoration, including  
29 reasonable management costs necessary to achieve such restoration,  
30 reasonable attorney's fees and costs and such injunctive or equitable  
31 relief as the court deems appropriate. In addition, the court may award  
32 damages of up to five times the cost of restoration or statutory  
33 damages of up to five thousand dollars. In determining the amount of  
34 the award, the court shall consider the willfulness of the violation, the  
35 extent of damage done to natural resources, if any, the appraised value  
36 of the shrub or ornamental or shade tree, any economic gain realized  
37 by the violator and any other relevant factors. The appraised value  
38 shall be determined by the town tree warden, the borough tree  
39 warden, the city forester, the Commissioner of Transportation, the  
40 Public Utilities Regulatory Authority or other authority having  
41 jurisdiction and shall be determined in accordance with regulations  
42 adopted by the Commissioner of Energy and Environmental  
43 Protection. The commissioner shall adopt regulations, in accordance  
44 with the provisions of chapter 54, to develop guidelines for such plant  
45 appraisal. The regulations may incorporate by reference the latest

46 revision of The Guide for Plant Appraisal, as published by the  
47 International Society of Arboriculture, Urbana, Illinois. Until such time  
48 as regulations are adopted, appraisals may be made in accordance  
49 with said Guide for Plant Appraisal.

50 (c) Any person, firm or corporation which deposits or throws any  
51 advertisement within the limits of any municipal property or public  
52 way or grounds, or upon private premises or property, unless the  
53 same is left at the door of the residence or place of business of the  
54 occupant of such premises or property, or deposits or throws any  
55 refuse paper, camp or picnic refuse, junk or other material within the  
56 limits of any parcel of municipal property or public way or grounds,  
57 except at a place designated for that purpose by the authority having  
58 supervision and control of such municipal property or public way or  
59 grounds, or upon private premises or property without permission of  
60 the owner thereof, or affixes to or maintains upon any tree, rock or  
61 other natural object within the limits of a parcel of municipal property  
62 or public way or grounds any paper or advertisement other than  
63 notices posted in accordance with the provisions of the statutes, or  
64 affixes to or maintains, upon the property of another without his  
65 consent, any word, letter, character or device intended to advertise the  
66 sale of any article, shall (1) for a first offense, be fined not more than  
67 two hundred fifty dollars, and (2) for any subsequent offense, be guilty  
68 of a class C misdemeanor.

69 (d) The removal, pruning or wilful injury of any shrub or  
70 ornamental or shade tree, or the use of climbing spurs upon any  
71 ornamental or shade tree without the consent of the tree warden or of  
72 the officer with similar duties or the affixing of any playbill, picture,  
73 notice, advertisement or other similar thing concerning the business or  
74 affairs of any person, firm or corporation, to a pole, shrub, tree, rock or  
75 other natural object, within the limits of any parcel of municipal  
76 property, public way or grounds in violation of the provisions of this  
77 section by an agent or employee of such person, firm or corporation,  
78 shall be deemed to be the act of such person, firm or corporation, and  
79 such person, or any member of such firm or any officer of such

80 corporation, as the case may be, shall be subject to the penalty herein  
81 provided, unless such act is shown to have been done without his  
82 knowledge or consent.

83 (e) The affixing of each individual playbill, picture, notice,  
84 advertisement or other similar thing to a pole, shrub, tree, rock or  
85 other natural object, or the wilful removing, pruning, injuring or  
86 defacing of each shrub or tree, or the throwing of each individual  
87 advertisement or lot of refuse paper or other material within the limits  
88 of any parcel of municipal property or public way or grounds or on  
89 private premises, shall constitute a separate violation of the provisions  
90 of this section. Nothing in this section shall affect the authority of a tree  
91 warden, either by himself or by a person receiving a written permit  
92 from him, to remove, prune or otherwise deal with a shrub or tree  
93 under his jurisdiction.

94 (f) Any person, firm or corporation, other than a tree warden or his  
95 deputy, who desires the cutting or removal, in whole or in part, of any  
96 tree or shrub or part thereof within the limits of any parcel of  
97 municipal property or public road or grounds, may apply in writing to  
98 the town tree warden, the borough tree warden or the Commissioner  
99 of Transportation or other authority having jurisdiction thereof for a  
100 permit so to do. Upon receipt of such permit, but not before, the  
101 applicant may proceed with such cutting or removal, provided doing  
102 so is also consistent with section 16-234, as amended by this act, if  
103 applicable. Before granting or denying such permit, such authority  
104 may hold a public hearing as provided in section 23-59. Such  
105 application shall be acknowledged by the authorizing authority upon  
106 the commencement of any public comment period or public hearing or  
107 upon such authority's decision to forego such a hearing. When the  
108 applicant is a public utility corporation, the party aggrieved by such  
109 decision may, within ten days, appeal therefrom to the Public Utilities  
110 Regulatory Authority, which shall have the power to review, confirm,  
111 change or set aside the decision appealed from and its decision shall be  
112 final provided a tree warden's reasonable delay to act on such an  
113 application for the purpose of public comment or review of the

114 affected vegetation shall not be considered a denial or constitute  
115 grounds for an appeal to the Public Utilities Regulatory Authority. The  
116 burden of proving that public convenience and necessity requires the  
117 proposed cutting or removal shall be on the utility. This appeals  
118 process shall be in addition to the powers granted to the Public  
119 Utilities Regulatory Authority under section 16-234, as amended by  
120 this act, provided, if an application for such permit has been made to  
121 either a tree warden or the Commissioner of Transportation or other  
122 authority and denied by him, an application for a permit for the same  
123 relief shall not be made to any other such authority. Upon any  
124 approval of such a permit by the Commissioner of Transportation, he  
125 shall notify the tree warden for the town in which the tree is located.  
126 Upon any approval of such a permit by the Commissioner of  
127 Transportation, the permittee shall notify the tree warden for the town  
128 in which the tree is located prior to cutting any such tree.

129 Sec. 2. Section 16-234 of the general statutes is repealed and the  
130 following is substituted in lieu thereof (*Effective from passage*):

131 (a) As used in this section:

132 (1) "Utility" means a telephone, telecommunications or electric  
133 distribution company, each as defined in section 16-1;

134 (2) "Utility protection zone" means any rectangular area extending  
135 horizontally for a distance of eight feet from any outermost electrical  
136 conductor or wire installed from pole to pole and vertically from the  
137 ground to the sky;

138 (3) "Hazardous tree" means any tree or part of a tree that is (A)  
139 dead, (B) extensively decayed, or (C) structurally weak, which, if it  
140 falls, would endanger utility infrastructure, facilities or equipment;

141 (4) "Vegetation management" means the retention of trees and  
142 shrubs that are compatible with the utility infrastructure and the  
143 pruning or removal of trees, shrubs or other vegetation that pose a risk  
144 to the reliability of the utility infrastructure. Until such time as the

145 Department of Energy and Environmental Protection issues standards  
146 for identifying such compatible trees and shrubs, the standards and  
147 identification of such compatible trees and shrubs shall be as set forth  
148 in the 2012 final report of the State Vegetation Management Task  
149 Force;

150 (5) "Pruning" means the selective removal of plant parts to meet  
151 specific utility infrastructure reliability goals and objectives, when  
152 performed according to current professional tree care standards and in  
153 a manner that retains the structural integrity and health of the  
154 vegetation;

155 (6) "Abutting property owner" means the owner of the property  
156 abutting or adjacent to that portion of a public road, public highway or  
157 public grounds where the tree or shrub that the utility proposes to  
158 remove or prune is located; and

159 (7) "Private property owner" means the owner of the property  
160 where a tree or shrub the utility proposes to remove or prune is  
161 located, which may include municipally owned land.

162 (b) A utility may perform vegetation management within the utility  
163 protection zone, as necessary, to secure the reliability of utility  
164 services.

165 (c) (1) In conducting vegetation management, no utility shall prune  
166 or remove any tree or shrub within the utility protection zone, or on or  
167 overhanging any public road, public highway or public ground,  
168 without delivering notice of the proposed vegetation management to  
169 the abutting property owner or private property owner. Such notice  
170 shall include the option for the abutting property owner or private  
171 property owner to consent, in writing, to such proposed pruning or  
172 removal, object to such proposed pruning or removal or modify such  
173 proposed pruning or removal. The notice shall include instructions  
174 regarding how the recipient may object in accordance with subdivision  
175 (3) of this subsection. Such notice shall also include a statement that if a  
176 person objects to the proposed pruning or removal, and such tree falls

177 on any utility infrastructure, such person shall not be billed by the  
178 utility for any resulting damage. If requested by an owner of private  
179 property, the utility, municipality or the Commissioner of  
180 Transportation, as appropriate, shall provide such owner with  
181 information regarding whether a tree or shrub to be pruned or  
182 removed is in the public right-of-way or whether such tree or shrub is  
183 on such owner's private property.

184 (2) Notice shall be considered delivered when it is (A) mailed to the  
185 abutting property owner or private property owner via first class mail,  
186 electronic mail or text message, (B) delivered, in writing, at the location  
187 of the abutting property or private property owner, or (C)  
188 simultaneously conveyed verbally and provided in writing to the  
189 abutting property owner or private property owner. A utility shall  
190 deliver such notice to the abutting property owner or private property  
191 owner at least fifteen business days before the starting date of any such  
192 pruning or removal. For any tree located within a public right-of-way,  
193 notice shall not be considered delivered until an application is made  
194 and acknowledged in accordance with the provisions of subsection (f)  
195 of section 23-65, as amended by this act.

196 (3) The notice shall indicate that (A) objection to pruning or removal  
197 shall be filed, in writing, with the utility and either the tree warden of  
198 the municipality or the Commissioner of Transportation, as  
199 appropriate, not later than ten business days after delivery of the  
200 notice, and (B) the objection may include a request for consultation  
201 with the tree warden or the Commissioner of Transportation, as  
202 appropriate. For purposes of this section, an abutting property owner  
203 may file an objection or request for modification by (i) sending a  
204 written objection or request for modification to the utility or tree  
205 warden at the address for each specified on the notice, provided if the  
206 written objection is mailed, it shall be deemed received on the date it is  
207 postmarked, or (ii) sending by electronic mail an objection or request  
208 for modification to the dedicated electronic mail address maintained  
209 by the utility as specified on the notice.

210 (4) The utility shall not prune or remove any tree or shrub that is  
211 outside of the public right-of-way unless it receives written affirmative  
212 consent from the private property owner to whom notice is required in  
213 accordance with subdivision (2) of this subsection.

214 (5) If no objection is filed by the abutting property owner in  
215 accordance with subdivision (3) of this subsection, the utility may  
216 prune or remove the trees or shrubs for which notice of pruning or  
217 removal has been delivered, provided the utility has also received a  
218 permit as required by subsection (f) of section 23-65, as amended by  
219 this act. Nothing in this chapter shall be construed to limit the power  
220 and authority of a tree warden as set forth in subsection (f) of section  
221 23-65, as amended by this act.

222 (6) If the abutting property owner files an objection or request for  
223 modification pursuant to subdivision (3) of this subsection, or if the  
224 utility does not accept the modification to the original notice, as  
225 described in subdivision (1) of this subsection, the tree warden of the  
226 municipality or the Commissioner of Transportation, as appropriate,  
227 shall issue a written decision as to the disposition of the tree or shrub  
228 not later than ten business days after the filing date of such objection.  
229 This decision shall not be issued before a consultation with the  
230 abutting property owner if such a consultation has been requested. The  
231 abutting property owner or the utility may appeal the tree warden's  
232 decision to the Public Utilities Regulatory Authority within ten  
233 business days after the tree warden's decision.

234 (A) Prior to the final decision in the docket described in subsection  
235 (c) of section 16-32h, the authority shall hold a hearing within sixty  
236 calendar days of receipt of the abutting property owner's or utility's  
237 written appeal of the tree warden's decision and shall provide notice of  
238 such hearing to the abutting property owner, the tree warden or the  
239 Commissioner of Transportation, as appropriate, and the utility. The  
240 authority may authorize the pruning or removal of any tree or shrub  
241 whose pruning or removal has been at issue in the hearing if it finds  
242 that public convenience and necessity requires such action. The burden



243 of proving that public convenience and necessity requires such action  
244 shall be on the utility.

245 (B) On and after the effective date of the final decision issued in the  
246 docket described in subsection (c) of section 16-32h, the entity  
247 designated by the authority, as determined by such docket, shall hold  
248 a mediation session not later than thirty calendar days after receipt of  
249 the abutting property owner's or utility's appeal of the tree warden's or  
250 the Commissioner of Transportation's decision and shall provide  
251 notice of such mediation session to the abutting property owner, the  
252 tree warden or the Commissioner of Transportation, as appropriate,  
253 and the utility, provided the abutting property owner may opt not to  
254 utilize such mediation session and proceed to the hearing described in  
255 this subparagraph. In the event that the appeal is not settled by  
256 mediation, or the abutting owner elects not to use such mediation  
257 session, the authority shall hold a hearing not later than thirty calendar  
258 days after the conclusion of the mediation session, or within sixty  
259 calendar days of the receipt of the abutting property owner's written  
260 appeal if there is no mediation session, and shall provide notice of such  
261 hearing to the abutting property owner, the tree warden, or the  
262 Commissioner of Transportation, as appropriate, and the utility. The  
263 authority may authorize the pruning, removal or stump grinding of  
264 any tree or shrub whose pruning or removal has been at issue in the  
265 hearing if it finds that public convenience and necessity requires such  
266 action. The burden of proving that public convenience and necessity  
267 requires such action shall be on the utility.

268 (7) When an objection or request for modification has been filed  
269 pursuant to subdivision (3) of this subsection, no tree or shrub subject  
270 to the objection or request for modification shall be pruned or removed  
271 until a final decision has been reached pursuant to subdivision (6) of  
272 this subsection.

273 (d) Subsection (c) of this section shall not apply if the tree warden of  
274 the municipality or the Commissioner of Transportation, as  
275 appropriate, authorizes, in writing, pruning or removal by the utility

276 of a hazardous tree within the utility protection zone or on or  
277 overhanging any public highway or public ground. If the hazardous  
278 tree is outside of the public right-of-way, the utility shall make a  
279 reasonable effort to notify the property owner of the proposed pruning  
280 or removal at least three days prior to performing such pruning or  
281 removal. Nothing in this subsection shall be construed to require a  
282 utility to prune or remove a tree.

283 (e) No utility shall be required to obtain a permit pursuant to  
284 subsection (f) of section 23-65, as amended by this act, or provide  
285 notice under subsection (c) of this section to prune or remove a tree, as  
286 necessary, if any part of a tree is in direct contact with an energized  
287 electrical conductor or has visible signs of burning. Nothing in this  
288 subsection shall be construed to require a utility to prune or remove a  
289 tree.

290 (f) No utility shall exercise any powers which may have been  
291 conferred upon it to change the location of, or to erect or place, wires,  
292 conductors, fixtures, structures or apparatus of any kind over, on or  
293 under any public road, public highway or public ground, without the  
294 consent of the adjoining proprietors or, if such company is unable to  
295 obtain such consent, without the approval of the Public Utilities  
296 Regulatory Authority, which shall be given only after a hearing upon  
297 notice to such proprietors. The authority may, if it finds that public  
298 convenience and necessity require, authorize the changing of the  
299 location of, or the erection or placing of, such wires, conductors,  
300 fixtures, structures or apparatus over, on or under such public road or  
301 highway or public ground.

302 (g) Each utility shall operate an electronic mail account to receive  
303 objections, requests for modification, inquiries or complaints pursuant  
304 to subsections (a) to (f), inclusive, of this section.

305 (h) When conducting vegetation management within a utility  
306 protection zone pursuant to this section, the utility shall provide for  
307 the removal or disposition of any debris generated as a result of such

308 pruning or removal. The provisions of this subsection shall apply only  
 309 to vegetation management requested by the utility and approved  
 310 pursuant to this section and, if applicable, section 23-65, as amended  
 311 by this act.

312 (i) Not later than January 31, 2017, and each year thereafter, each  
 313 utility intending to conduct vegetation management in a town or  
 314 borough in this state shall provide the following to the tree warden of  
 315 such town or borough, or to the chief elected official of each such town  
 316 or borough: (1) A plan detailing the proposed roads or areas in said  
 317 town or borough where such vegetation management will take place  
 318 in the forthcoming calendar year, and (2) the estimated time schedule  
 319 for such proposed vegetation management. Each town or borough  
 320 provided with a utility vegetation management plan in accordance  
 321 with this subsection shall make such plan publicly available, by  
 322 electronic means or otherwise, not later than fourteen days after  
 323 receipt, and keep such plan publicly available for the remainder of the  
 324 forthcoming calendar year.

325 (j) Except as provided in subsection (e) of this section, (1) nothing in  
 326 this section shall be construed to authorize any utility to conduct  
 327 vegetation management in any utility protection zone, or portion  
 328 thereof, that is located on any parcel of municipal property without  
 329 complying with the provisions of section 23-65, as amended by this act,  
 330 and (2) any vegetation management conducted in such a zone in  
 331 violation of the requirements of section 23-65, as amended by this act,  
 332 shall be considered a violation of this title for purposes of section 16-  
 333 41."

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|---|---------------------|--------|
| This act shall take effect as follows and shall amend the following sections: |                     |        |
| Section 1   | <i>from passage</i> | 23-65  |
| Sec. 2  | <i>from passage</i> | 16-234 |

|           |                     |        |
|-----------|---------------------|--------|
| Section 1 | <i>from passage</i> | 23-65  |
| Sec. 2    | <i>from passage</i> | 16-234 |